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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/756,978	01/09/2001	Eugene Roussel	210582.0001/IUS	6809

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EXAMINER

DAVIS, NATALIE A

ART UNIT PAPER NUMBER

1642

DATE MAILED: 07/03/2002

11

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/756,978

Applicant(s)

ROUSSEL, EUGENE

Examiner

Natalie A. Davis

Art Unit

1642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Applicant's amendment filed 17 April 2002 (Paper No: 9) is acknowledged. Accordingly, claims 4, 9, 29, and 46-48 are amended, claims 67 and 73 are cancelled, and claims are pending.

Response to Arguments

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Information Disclosure Statement

The information disclosure statement filed 7 May 2002 has been considered. A signed copy is attached hereto.

Claim Rejections - 35 USC § 112 1st Maintained

1. Rejection of claims 1-66 under 35 U.S.C.112, first paragraph is maintained for reasons set forth in the previous office action. The traversal is on the grounds that the specification describes numerous methods of locally administering agents to tumors. More specifically, the administration of antigen-releasing agents, leukocyte attractants and IFN-g and IRI-promoting agents to a tumor and assertion that the method steps represent a specific, substantial, and credible utility. Applicant's arguments have been considered but are not persuasive because even though the specification discloses how to locally administer antigen-releasing agents, leukocyte attractants and IFN-g and IRI-promoting agents to a tumor, it does not give any evidence of administration leading to the alleviation of a tumor **in a human patient**. The art teaches treating cell lines (*in vitro*) obtained from tumors using said agents, but does not give any evidence of alleviation (*in vivo*) of tumors in a human or any other subject. Likewise, there are no working examples or guidance asserting the alleviation of any tumors in a human patient using the method as claimed. Those of skill in the art recognize that, although a method may be useful *in vitro*, correlation *in vivo* does not necessarily follow. Thus, it would be unpredictable and require undue experimentation to one skilled in the art to practice the claimed invention as the art only teaches the treatment of cell lines and not tumor in a subject.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for response to this final action is set to expire **THREE MONTHS** from the date of this action. In the event a first response is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for response expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Natalie A. Davis whose telephone number is 703-308-6410. The examiner can normally be reached on M-F 8-5:30 (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa PhD can be reached on 703-308-3995. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-4315 for regular communications and 703-308-4556 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Natalie A. Davis, Ph D
June 18, 2002


ANTHONY C. CAPUTA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1630